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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/375,451	08/17/1999	GUY L. MCCLUNG III	GLM-III	5100

7590

08/14/2002

GUY L MCCLUNG  
III SUITE 347  
16690 CHAMPION FOREST DRIVE  
SPRING, TX 773797023

EXAMINER

ALVAREZ, RAQUEL

ART UNIT

PAPER NUMBER

3622

DATE MAILED: 08/14/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/375,451

Applicant(s)

MCCLUNG III, GUY L.

Examiner

Raquel Alvarez

Art Unit

3622

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 August 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: \_\_\_\_\_

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
10. ☐ Other: \_\_\_\_\_

  
ERIC W. STAMBER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

Continuation of 5. does NOT place the application in condition for allowance because: Applicant argues that Walker doesn't teach after sale monitoring of prices for the item. The examiner disagrees with Applicant because why would the customer get a credit in the form of a check or a refund to the credit card if the monitoring of the item was before the item was purchased? If the monitoring was performed before the item was purchased then a refund wouldn't be necessary. In column 22, lines 17-32, Walker teaches that the customer is charged the store price for the item purchased and that if there is an established price in the system then the customer is refunded the difference between the price paid and the established price therefore the monitoring is after the item is purchased.

With respect to Applicant's argument that Walker doesn't teach that the purchasing is via an on-line system. The Examiner disagrees with Applicant because Walker on column 22, lines 6-11 that the customer can make his purchases at the local store or on line via the web.

With respect to Applicant's arguments to claim 42, the examiner asserts that a 103 was applied to the claim and that one of ordinary skill in the art is presumed to know something about the art. Walker teaches guaranteeing a consumer a best price then it would have been obvious to a person of ordinary skill in the art to refund the consumers for each subsequent sales prices lower than the price paid because such a modification would guarantee the lowest price for the item purchased.

With respect to Applicant's arguments to claims 43 and 51, the Examiner asserts that the claims were rejected under 103 and that duplicating an incentive is an old and well known business techniques to increase sales.